

**MINUTES
of the
FOURTH MEETING
of the
INDIAN AFFAIRS COMMITTEE**

**August 30 - September 1, 2006
Newcomb Chapter, Navajo Nation
Red Valley Chapter, Navajo Nation
Hogback Chapter, Navajo Nation**

The fourth meeting of the Indian Affairs Committee for the 2006 interim was called to order by Senator John Pinto, co-chair, on Wednesday, August 30, 2006, at 10:32 a.m. at the Chapter House of the Newcomb Chapter, Navajo Nation. Senator Pinto asked Representative Ray Begaye to chair the meeting.

Present

Rep. James Roger Madalena, Co-chair (8/31)
Sen. John Pinto, Co-chair (8/30, 9/1)
Sen. Rod Adair (8/31, 9/1)
Rep. Ray Begaye
Sen. Dianna J. Duran (8/30, 8/31)
Rep. Irvin Harrison (9/1)
Rep. Manuel G. Herrera
Rep. Patricia A. Lundstrom (9/1)
Sen. Nancy Rodriguez
Sen. John C. Ryan (8/31, 9/1)
Sen. Leonard Tsosie

Advisory Members

Rep. Nick L. Salazar (8/31, 9/1)
Rep. Gloria C. Vaughn

Absent

Sen. Lidio G. Rainaldi
Rep. Don L. Tripp
Rep. W. C. "Dub" Williams
Rep. Teresa A. Zanetti

Sen. Ben D. Altamirano
Sen. Joseph J. Carraro
Rep. Ben Lujan
Sen. Richard C. Martinez
Rep. Debbie A. Rodella
Sen. William E. Sharer

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Larry Matlock

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Wednesday, August 30 - Newcomb Chapter

Newcomb Chapter — Status Update

Thomas Joe Yazzie, president of the Newcomb Chapter, welcomed the committee to the chapter. The chapter is located off State Highway 491 between Shiprock and Gallup. One convenience store is located three miles to the north; the Newcomb Trading Post burned down four or five years ago. The chapter has a 16-mile service radius and includes approximately 1,500 registered voters; about 100 students graduate from high school each year. President Yazzie gave some history of the chapter and the surrounding chapters. In 1982, the Newcomb Chapter became the 109th chapter of the Navajo Nation. The chapter was certified by the Navajo Nation on June 18, 2004 under the Local Governance Act. On March 29, 2006, the chapter signed a joint powers agreement with New Mexico. These developments have opened the doors for unlimited accomplishments, and the chapter is on its way to growth and development.

Willamena Smith, vice president of the chapter, described the work that was done by chapter officials to have the chapter certified under the Navajo Nation Local Governance Act. She spoke about the current needs of the community. Fifty percent of the population live in inadequate housing with no running water or electricity. All of the roads are gravel, which can be a problem in bad weather. The community would like to have its own convenience store. It also needs a clinic as the health care facilities in Shiprock, Farmington and Gallup are far away. Raymond Tsosie, chapter manager, described his view of the chapter certification process and what is involved in spending capital outlay funds appropriated by the state, including recent expenditures. The certification has brought autonomy at the local level and empowers the citizens of the chapter.

In the course of questions and comments by committee members, Representative Vaughn moved that the committee write a letter to Secretary of Transportation Rhonda Faught expressing support for improvements for State Highway 491. The motion was seconded by Senator Tsosie and passed without objection.

Certification of Navajo Nation Chapters

Herbert Clah, director of the Shiprock Local Government Support Center of the Navajo Nation, gave a brief overview of Title 26 of the Navajo Nation Code (Local Governance Act), gave a PowerPoint presentation of the history of that law and reviewed the steps that chapters must take to become certified. Since 1998, only five chapters of the Navajo Nation have been certified pursuant to the Local Governance Act (LGA). The only chapter in New Mexico to have been certified is the Newcomb Chapter. The Hogback and San Juan chapters have pursued certification and are in the final stages of the process. Ryan Claw, auditor general of the Navajo Nation, also reviewed the provisions of the LGA and the involvement of his office in the certification process. He mentioned that the Baca/Prewitt and Crownpoint chapters have started the certification process but their applications were incomplete. Reasons for the lack of applications from other chapters may include lack of interest, insufficient staff at the chapter level and insufficient training to learn the process. Committee members had questions and comments regarding the certification process and the role that Senate Bill 579 (Chapter 105) from the 2005 legislative session could have in making capital outlay money available to chapters.

Desert Rock Power Plant — Status Update

Freddy Sanches, vice president, and Nathan Plagens, director of project development of Sithe Global Power, LLC, and Steven C. Begaye, general manager of Diné Power Authority, briefed the committee on the status of the proposed Desert Rock Power Plant. They gave an overview of both Sithe Global and the Diné Power Authority and explained the relationship between the two entities. The proposed plant will be a 1,500 megawatt-generating plant located in the area of the Nenahnezad and Burnham chapters and will be fueled by coal from the nearby BHP coal mine. The estimated cost of the plant is \$2.8 billion with construction expected to begin in 2007. The Navajo Nation has already approved a water agreement and a lease agreement. A draft air permit was issued by the EPA in July, and the EPA is expected to issue a draft environmental impact statement in October 2006. All required permits are expected to be issued by March 2007. Mr. Sanches reviewed the anticipated economic benefits from the Desert Rock project in the areas of employment opportunities, tax revenues, improved infrastructure, economic growth and additional economic development; Sithe Global has proposed payments in lieu of taxes to San Juan County. Mr. Sanches also reviewed benefits specifically accruing to the Navajo Nation, and Mr. Plagens reviewed community outreach efforts to the Navajo Nation. Mr. Sanches also reviewed aspects of the anticipated environmental impact of the proposed power plant. In order for the power generated by the proposed plant to be at competitive prices, Sithe Global will need tax abatement agreements with the Navajo Nation and the state. Sithe Global has proposed a plan to be submitted to the legislature that will provide tax abatements capped at \$85 million. Harrilene Yazzie, NEPA coordinator with the Navajo Regional Office of the Bureau of Indian Affairs (BIA), discussed the process to be followed in the preparation of an environmental impact statement, including public meetings on the Navajo Nation. A representative of Diné CARE expressed her opposition to the project.

Following presentations by panel members, questions and comments by committee members addressed numerous areas of interest, including the anticipated rate of return by Sithe Global and other investors, wells and impact on ground water, transmission and sale of the power to be generated by the proposed plant, financing requirements, employee hiring practices and joint ownership with the Navajo Nation.

Central Consolidated School District — Status Update

A panel consisting of Larry Emerson, Hoskie Benally, Shirley Lowe, Janet Slowman Chee and Rozana Lopez was present to brief the committee on the status of efforts to resolve a dispute between Navajo Nation community members and the Central Consolidated School District. A committee mediation team has been formed to address the 18 issues that have been identified. The initial meetings were aimed at fostering a working dialog and to minimize the antagonism that had been building up. The team has developed four recommendations for the future: 1) develop a 20-year Navajo language and cultural restoration plan; 2) clarify the role of and coordination between the Indian Education Division of the Public Education Department and the Navajo Nation Department of Education; 3) further study the 18 issues identified that need resolution; and 4) study the impact and interaction between the Indian Education Act and Navajo Education Act. The panel discussed the principles underlying the 18 issues identified by the Navajo Nation Education Advisory Committee. The panel also discussed various funding sources for education efforts and how those funds are being used to teach the Navajo language and culture. The potential of splitting the school district was also discussed.

Navajo Language Academy

Ellevina Perkins and Irene Silentman from the Native Language Academy asked the committee to support an appropriations request in the amount of \$177,325 to fund the Living the Navajo Language into the Future Program of the academy. That program would include supporting the academy's training program in Rehoboth, New Mexico, for Navajo language teachers and linguists. They also presented statistics illustrating how the number of Navajo-speaking people have diminished over recent years, especially among school children. In 1969, a study showed that 95% of Navajo six-year olds spoke only Navajo; more recent studies indicate that at the present time, 95% of Navajo six-year olds speak only English. There is fear that the Navajo language will die out in only a few more generations.

Following the presentations regarding the Navajo Language Academy, Representative Begaye recessed the meeting at 5:45 p.m.

Thursday, August 31 - Red Valley Chapter

The fourth meeting of the Indian Affairs Committee for the 2006 interim was called back into session by Senator Pinto on Thursday, August 31, 2006, at 9:50 a.m. at the chapter house of the Red Valley Chapter, Navajo Nation.

Red Valley Chapter — Status Update

Phillip Harrison, Jr., president of the Red Valley Chapter, welcomed the committee to the chapter. The chapter used to be known as Red Rock, but the name was changed because there is another Red Rock near Gallup. The chapter's population is about 5,000 with 1,000 voters, and the chapter is located in both New Mexico and Arizona. The chapter receives little financial support from Arizona, and it is grateful for the capital outlay appropriations received from New Mexico. The chapter needs a new chapter house, and the residents need power line extensions and improvements to their housing. The chapter's senior citizens need a group home. The chapter gives scholarships to its students attending college. The chapter is losing members due to health problems resulting from work in the uranium mines; there is a shortage of grandfathers. While Congress passed laws giving compensation to Navajo uranium workers and their families, only about 10% of Navajo claimants have been paid. President Harrison thanked the committee for sponsoring a memorial on that subject. Old uranium mines still remain open and ground water is being contaminated. Helena Benally, community services coordinator, updated the committee on the status of the power line extension project that is funded through capital outlay dollars.

Rural Roads on the Navajo Nation — Status Update

Larry Maynard, district engineer for District 6 of the Department of Transportation, enlightened the committee on the funding problems facing highway maintenance in District 6. Over the past seven years, fuel costs have increased from 125% to 200%, the cost of equipment maintenance and repair has increased 125% due to higher steel costs and federal emission standards and contract highway maintenance has increased 12%. This year District 6 has incurred \$200,000 in expenses related to flood damage. Notwithstanding these cost increases, the district's budget has not significantly increased. Mr. Maynard stated that the highway project

for Highway 491 from Tohatchi to Shiprock is alive and well. The involved government agencies are working on finalizing construction plans and acquiring necessary easements for the highway expansion. The northern portion should have finalized plans by November 2006 and the southern portion by April 2007. Construction timing is dependent upon completion of easement negotiations and the overall highway construction budgetary cash flow. The Department of Transportation has a new tribal liaison, and work is being done to change state roads into tribal roads in order to maintain or increase funding under the federal Indian Reservation Roads Program. John McElroy, district engineer for District 5 of the Department of Transportation, reviewed the projects in San Juan County that are part of the Statewide Transportation System Improvement Program (STIP). These projects include work on U.S. 64 from Farmington to Bloomfield and U.S. 491 from Shiprock to the Utah state line. He also noted that damage to a bridge on state Route 170 due to flooding on July 8 will cost an unbudgeted \$750,000 for emergency repairs. Tom Platero, director of the Navajo Nation Department of Transportation, expressed appreciation to the committee for the state's support of joint state-tribal highway maintenance yards. Mr. Platero reviewed the funding of his department — \$3.5 million from the BIA to cover the entire reservation. The department recently quadrupled its staff for rural road maintenance and is working on agreements with the state and counties regarding maintenance of tribal roads. The department may be taking over responsibility for the maintenance of BIA roads on the reservation. Mr. Platero also explained efforts being taken to ensure the Navajo Nation does not receive reduced funding through the federal Indian Reservation Roads Program. It was noted that with the funding shortage, the 2003 long-range transportation plan will take 445 years to complete at current funding levels. The Navajo Nation fuel excise tax will provide \$9 million to accommodate requests totaling \$86 million. He reviewed the suggested projects that are to be included in the proposed GRIP 2 program. Questioning and comments by committee members focused on the status of scheduled improvements to U.S. Highway 491 and other various highways in Districts 5 and 6. In the course of discussion, Senator Tsosie moved that the committee write a letter to the BIA expressing its disappointment that a BIA representative did not participate in this meeting. The motion was seconded by Representative Vaughn and was approved without opposition.

Borderline Chapters of the Navajo Nation

Kurt Arviso, community services coordinator for the Fort Defiance Chapter of the Navajo Nation, presented to the committee. The Fort Defiance Chapter lies mainly in Arizona but does receive capital outlay appropriations. One concern is that the chapter has been advised that heavy equipment purchased with funds received from New Mexico may be used and stored only within New Mexico. This is a problem because the chapter's compound is in Arizona and it costs extra for security if the equipment is stored in New Mexico away from the compound. The chapter is in need of additional heavy equipment and a building for its Head Start Program. The chapter is moving toward certification pursuant to the Local Governance Act, but it foresees a problem with payments being made only on a reimbursement basis; the chapter does not have the financial resources to front the money for large projects. The chapter is also concerned about future plans for the coal mine that will be closing in the foreseeable future.

Ralph Atcitty of the Teec Nos Pos Chapter of the Navajo Nation noted that his chapter is unique in that it is located in three states, New Mexico, Arizona and Utah, and includes the Four Corners Monument. The chapter has 1,323 members according to the 2000 census. The chapter

has a BIA boarding school that serves 250 students and a very active program for the more than 350 chapter elders. It is anticipated that a new IHS facility will open up just west of the community in December 2006. The chapter will be seeking financial assistance for a solid waste transfer station to be located on the Arizona state line that will serve both the Teec Nos Pos and the Beclahbito chapters and for home improvements for chapter members living in New Mexico.

Tribal Infrastructure Fund

Everett Chavez, member of the Tribal Infrastructure Board, reviewed the provisions of the Tribal Infrastructure Act and the role of the Tribal Infrastructure Board. He gave a chronology of the actions of the board, including formal adoption of the bylaws and guidelines that were previously provided to the committee. The board is developing guidelines for reviewing and approving applications for the \$5 million that was appropriated to the Tribal Infrastructure Project Fund during the 2006 legislative session. Some applications have already been received and the Indian Affairs Department recently sent out an announcement requesting proposals. He expressed the need for a funding source beyond the \$5 million legislative appropriation as the need greatly exceeds those funds. Mr. Chavez reviewed the projects that had been funded with \$3 million appropriated in the 2005 legislative session, which decisions had been made prior to appointment of the board, and the application that had already been received for part of the pending \$5 million appropriation. Rebecca Martinez, capital outlay manager for the Indian Affairs Department, discussed the educational outreach efforts of the department and technical issues regarding how the tribal infrastructure project funds might be used. There was extensive discussion between committee members and the panel regarding the process to be used for decisions on how to allocate funds, leveraging of funds, legislative oversight of funding decisions, the process used for allocating the \$3 million appropriation in 2005, tribal gaming revenues and long-term funding of tribal infrastructure needs.

Following the presentation regarding the Tribal Infrastructure Fund, Representative Begaye recessed the meeting at 4:15 p.m.

Friday, September 1 - Hogback Chapter, Navajo Nation

The fourth meeting of the Indian Affairs Committee for the 2006 interim was called back into session by Senator Pinto on Friday, September 1, 2006, at 9:35 a.m. at the chapter house of the Hogback Chapter, Navajo Nation.

Hogback Chapter, Navajo Nation — Status Update

Charlie Jones, Jr., president, and Anita Hayes, community services coordinator for the Hogback Chapter, welcomed the committee to the chapter. Ms. Hayes described the efforts the chapter has made to implement the \$500,000 capital outlay appropriation for a power line extension to serve families without electricity. The chapter is working hard to get certified pursuant to the Local Governance Act, following the lead of the Newcomb Chapter. During the discussion by committee members, Representative Lundstrom moved that the committee write letters to power distribution entities in the area requesting information on plans to service areas that are not currently served. The motion was seconded by Representative Vaughn and passed without objection.

Civil Rights Issues — Farmington

In view of recent events in the Farmington area, the committee requested that a panel of involved persons brief the committee on recent events concerning alleged civil rights violations. The panel included Chili Yazzie, president of the Shiprock Chapter of the Navajo Nation, and Bob Melton, San Juan County sheriff. Representatives of Farmington were invited to attend, but Mayor William E. Standley had written the committee to apologize for being unable to attend due to a prior commitment out of town. Mayor Standley provided the committee with a brief status report on civil rights issues and racial tensions in the Farmington area.

President Yazzie provided the committee with a lengthy and detailed history of long-standing racial tensions and civil rights problems in the Farmington area. These problems existed in the 1960s and reached a peak in the 1970s with instances of "Indian rolling" and the murder of three Navajos in 1974. The Navajo community rose up in protest on that occasion and marched on the City of Farmington, resulting in 15 Navajos being arrested and 34 Navajos being charged with various crimes. The Navajo community also organized an economic boycott of businesses in Farmington. Under the auspices of the U.S. Civil Rights Commission and the state, the city made an effort to recognize and deal with racial and civil rights issues and substantial progress was made in these areas. Then, in June of this year, there was a re-occurrence of Indian rolling involving three young Anglo men who were subsequently charged with a hate crime. Shortly after that incident, a Navajo man, Clint Black, was shot to death by a Farmington police officer in the course of a domestic dispute in a business parking lot. A subsequent investigation by the San Juan County Sheriff's Office concluded that the Farmington police officer had done nothing wrong in that incident. These recent occurrences have once again heightened racial tensions in the area, and the Navajo community has organized a walk to be conducted tomorrow, September 2, in memory of people killed or missing due to racial violence. Both the City of Farmington and the San Juan County Sheriff's Office have been cooperative and have worked together with the Navajo community in planning for this event.

Sheriff Melton addressed the concerns expressed by President Yazzie so far as they related to the Sheriff's Office. His office strives to ensure that efforts are made to uphold the law without regard to race and to endorse a spirit of diversity. He has made it clear that his office will not tolerate bias-based profiling. Sheriff Melton reviewed efforts that his office is making to ease racial tension and prevent civil rights violations, including efforts in the areas of employment, ongoing training, police actions, crime statistics, video equipment and complaint investigation guidelines.

Questions and comments by committee members included efforts made by the City of Farmington to ease racial tensions, law enforcement employment statistics, crime statistics by race, the investigation of the Clint Black case, the use of tasers, the establishment of a civil rights division in the Office of the Attorney General, the planned memorial walk and the city's response to a demonstration that was rumored to be planned for the 4th of July. In the course of the discussion, Representative Begaye moved that the committee write a letter to federal authorities requesting further investigation of the Clint Black incident and to the New Mexico Commission on Human Rights. Representative Harrison seconded the motion and it passed without objection.

In closing, President Yazzie made the following recommendations: investigate the San

Juan County Sheriff Office's relationship to Farmington Police Department regarding civil rights policy and procedures; develop a system of checks and balances to be used in the investigation process to prevent the "good ol' boys investigating the good ol' boys" syndrome; provide for more Native American employees; critique the City of Farmington's diversity practices; create a civil rights division within the District Attorney's Office along with Native American attorneys; study race relations within the state of New Mexico; involve the Indian Affairs Department in aggressively protecting Native Americans' civil rights in Farmington; and critique The Farmington Report: Civil Rights for Native Americans 30 Years Later.

Adjournment

There being no further business before the committee, the fourth meeting of the Indian Affairs Committee for the 2006 interim was adjourned at 1:40 p.m.